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THE LAWYER AND THE COMMUNITY.*

BY WOODROW WILSON.

THE whole history of society has been the history of a struggle for law, for the definite establishment and continuance of such relationships as seemed to those who had the choice to be best suited to the support of their own influence and to the maintenance of the community over which they presided. Law is simply that part of the established thought and habit which has been accorded general acceptance and which is backed and sanctioned by the force and authority of the regularly constituted government of the body politic. The whole history of liberty, that history which so quickens our pulses as we look back upon it and which so sustains our confidence in the power of righteousness and of all the handsomer, nobler impulses of humanity, has been a struggle for the recognition of rights not only, but for the embodiment of rights in law, in courts and magistrates and assemblies. Such must always be the form of every high endeavor made in the interest of men and of the ideals of political life.

We do not fight to establish theses. We do not pour our blood out to vindicate a philosophy of politics. There are two great empires of human feeling—the realm of religion and the realm of political aspiration. In the one realm we work spiritually, our liberty is of the thought; in the other we work structurally, our liberty abides in institutions, is real only when it is tangible, a thing that can be put into operation—not in our own souls merely, but in the world of action outside of us as well. A right in the field of politics is a power to command the action of others in our own behoof; and that is also a right in law. Religions are mighty forces of belief, and the Church, when it has

* The substance of this article constituted the annual address of Dr. Wilson before the American Bar Association on August 31st, 1910.

its genuine and entire liberty, lies outside the State; but political liberty lives and moves and has its being in the structure and practice of society. The two fields are not, indeed, sharply separated: religious freedom must be safeguarded by institutional arrangements; but religious freedom is the right to be ungoverned, political freedom the right to be governed justly and with equity as between man and man. We fight for law as well as for faith because we fight not only for the right to think, but also for the right to be and to do what we will within the limits of a just and equal order.

The old order changeth—changeth under our very eyes, not quietly and equably, but swiftly and with the noise and heat and tumult of reconstruction. The forces of society contend openly with one another, avow their antagonisms, marshal and discipline their hosts, and are keen to win, not very willing to accommodate their differences and come to a common understanding which will be for the common advantage.

All struggle for law has been conscious; very little of it has been blind or merely instinctive. It is the fashion, too, to say, as if with a superior knowledge of affairs and of human weakness, that every age has been an age of transition, and that no age is more full of change than another; but in very few ages of the world has the struggle for change been so wide-spread, so deliberate, or upon so great a scale as this which we are taking part in. The transition we are witnessing is no equable transition of growth and normal alteration, no silent, unconscious unfolding of one age into another, its natural heir and successor. Society is looking itself over, in our day, from top to bottom, is making fresh and critical analysis of its very elements, is questioning its oldest practices as freely as its newest, scrutinizing every arrangement and motive of its life, and stands ready to attempt nothing less than a radical reconstruction, which only frank and honest counsels and the forces of generous co-operation can hold back from becoming a revolution. We are in a temper to reconstruct economic society as we were once in a temper to reconstruct political society, and political society may itself undergo a radical modification in the process. No age was ever more conscious of its task or more unanimously desirous of radical and extended changes in its economic and political practice.

This is not a day in which great forces rally in secret. The

whole stupendous programme is planned and canvassed in the open, and we have learned the rules of the game of change. Good temper, the wisdom that comes of sober counsel, the energy of thoughtful and unselfish men, the habit of co-operation and of compromise which has been bred in us by long years of free government, in which reason rather than passion has been made to prevail by the sheer virtue of candid and universal debate, will enable us to win through still another great age without revolution. This thing that is going on about us is not a mere warfare of opinion. It has an object, a definite and concrete object, and that object is Law, the alteration of institutions upon an extended plan of change.

We lawyers are servants of society, officers of the courts of justice. Our duty is a much larger thing than the mere advice of private clients. In every deliberate struggle for law we ought to be the guides, not too critical and unwilling, not too tenacious of the familiar technicalities in which we have been schooled, not too much in love with precedents and the easy maxims which have saved us the trouble of thinking, but ready to give expert and disinterested advice to those who purpose progress and the readjustment of the frontiers of justice.

Lawyers constructed the fabric of our State governments and of the government of the United States, and throughout the earlier periods of our national development presided over all the larger processes of politics. Our political conscience as a nation was imbedded in our written fundamental law. Every question of public policy seemed sooner or later to become a question of law, upon which trained lawyers must be consulted. In all our legislative halls debate thundered in the phrases of the written enactments under which our legislators and our Governors exercised authority. Public life was a lawyer's forum. Laymen lent their invaluable counsel, but lawyers guided and lawyers framed the law.

The dependence of our political movement upon the judgments of courts has not been altered, and cannot be. So long as we have written constitutions, courts must interpret them for us and must be the final tribunals of interpretation. I refer to the prominence and ascendancy of lawyers in the practical political processes which precede the judgments of the courts. Until the Civil War came and the more debatable portions of our funda-

mental law were cut away by the sword, the very platforms of parties centred upon questions of legal interpretation and lawyers were our guiding statesmen. I suppose a more intensely legal polity never existed.

So long as passion was excluded, it was a tonic way of life. Statesmanship necessitated precise thinking. Every policy that was proposed had to be explicitly grounded upon precedent. At every step there was a re-examination of the fundamental principles which were alleged to justify or sustain it. Thought of the long history of English constitutional practice and of the avowed purpose with which government had been set up in America constituted the atmosphere in which everything was done. Every ancient, every recent contest for liberty threw its light forward upon the debates of Congress and of State Legislatures. The newest State shared with the oldest the long tradition, and all alike were thoughtful of what had been designed and hoped for by the men whose sacrifices had given life to our freedom. No doubt it stiffened the action of government. No doubt there was a formality and a scrupulous regard for the letter in the conduct of legislation better suited to a young country just finding itself and face to face only with large problems of simple and obvious character than to an older country, whose life has grown complex and confused and whose questions of exigency square with no plain precedents of constitutional practice. Lawyers will construct for you a very definite polity and construct it to admiration; they have not often shown themselves equally fitted to liberalize it or facilitate the processes of change. But the leadership of lawyers at least meant a repeated re-examination of principle and precedent, and was very instructive even when it was least enlightened. It prevented fluidity. A reason had to be given for every step taken—a reason which would commend itself to the courts after it had commended itself to statesmen. The statesman and the lawyer were clients and consorts, and the legal conscience of the people was constantly refreshed and strengthened. These are great influences. They make for character and for the solidity of institutions.

But they are gone. You have only to recall the many extraordinary interpretations of the Interstate Commerce clause of the Constitution upon which serious debate has been wasted in Congress in recent years to be convinced of it. Our lawyers them-

selves are not carefully trained as they used to be in the principles of our constitutional law. It does not stand in the foreground of their study or practice, but in the background, very vague and general, a thing to be resorted to only upon rare occasion. Our legislatures now listen to debates upon constitutional questions with ill-concealed impatience, as tedious and academic. The nation has grown keen after certain practical objects and will not willingly brook the impediments set up by constitutions. The temper of the age is very nearly summed up in a feeling which you may put into words like these: "There are certain things we must do. Our life as a nation must be rectified in certain all-important particulars. If there be no law for the change, it must be found or made. We will not be argued into impotency by lawyers. We are not interested in the structure of our governments so much as in the exigencies of our life."

There are many reasons why this change of temper and of point of view has occurred. It is not by chance that statesmanship has grown bigger than the bounds of mere legal precedent.

In the first place, the debates and constitutional struggles of the first seventy years of our political history settled most of the fundamental questions of our constitutional law. Solid lines of decided cases carry the definite outlines of the structure and make clear the methods of its action. We seemed after the Civil War to be released from the demands of formal definition. The life of the nation, running upon normal lines, has grown infinitely varied. It does not centre now upon questions of governmental structure or of the distribution of governmental powers. It centres upon economic questions, questions of the very structure and operation of society itself, of which government is only the instrument. Our development has run so fast and so far along the lines sketched in the earlier day of constitutional definition, has so crossed and interlaced those lines, has piled upon them such novel structures of trust and combination, has elaborated within them a life so manifold, so full of forces which transcend the boundaries of the country itself and fill the eyes of the world, that a new nation seems to have been created which the old formulas do not fit or afford a vital interpretation of. The confusion has clearly come about without intention. We have been engaged in enterprises which the law as we formerly looked

at it was clearly not meant to prevent or embarrass. We pushed them forward, therefore, without thinking of the effect they might have upon older conceptions of our legal processes. They seemed to spring out of the normal and necessary uses of the great Continent whose riches we have been exploiting. We did not think of the legal consequences one way or the other, and therefore did not need or seek the advice of constitutional lawyers.

Constitutional lawyers have fallen into the background. We have relegated them to the Supreme Court, without asking ourselves where we are to find them when vacancies occur in that great tribunal. A new type of lawyers has been created; and that new type has come to be the prevailing type. Lawyers have been sucked into the maelstrom of the new business system of the country. That system is highly technical and highly specialized. It is divided into distinct sections and provinces, each with particular legal problems of its own. Lawyers, therefore, everywhere that business has thickened and had a large development, have become experts in some special technical field. They do not practise law. They do not handle the general, miscellaneous interests of society. They are not general counsellors of right and obligation. They do not bear the relation to the business of their neighborhoods that the family doctor bears to the health of the community in which he lives. They do not concern themselves with the universal aspects of society. The family doctor is himself giving place to a score of specialists; and so is also what one might call the family solicitor. Lawyers are specialists, like all other men around them. The general, broad, universal field of law grows dim and yet more dim to their apprehension as they spend year after year in minute examination and analysis of a particular part of it; not a small part, it may be, perhaps the part which the courts are for the time most concerned with, but a part which has undergone a high degree of development, which is very technical and many-sided, and which requires the study and practice of years for its mastery; and yet a province apart, whose conquest necessarily absorbs them and necessarily separates them from the dwindling body of general practitioners who used to be our statesmen.

And so society has lost something or is losing it—something which it is very serious to lose in an age of law, when society depends more than ever before upon the lawgiver and the courts

for its structural steel, the harmony and co-ordination of its parts, its convenience, its permanency and its facility. In gaining new functions, in being drawn into modern business instead of standing outside of it, in becoming identified with particular interests instead of holding aloof and impartially advising all interests, the lawyer has lost his old function, is looked askance at in politics, must disavow special engagements if he would have his counsel heeded in matters of common concern. Society has suffered a corresponding loss—at least American society has. It has lost its one-time feeling for law as the basis of its peace, its progress, its prosperity. Lawyers are not now regarded as the mediators of progress. Society was always ready to be prejudiced against them; now it finds its prejudice confirmed.

Meanwhile, look what legal questions are to be settled, how stupendous they are, how far-reaching and how impossible it will be to settle them without the advice of learned and experienced lawyers! The country must find lawyers of the right sort and of the old spirit to advise it, or it must stumble through a very chaos of blind experiment. It never needed lawyers who are also statesmen more than it needs them now,—needs them in its courts, in its legislatures, in its seats of executive authority,—lawyers who can think in the terms of society itself, mediate between interests, accommodate right to right, establish equity, and bring the peace that will come with genuine and hearty co-operation, and will come in no other way.

The specialization of business and the extraordinary development of corporate organization and administration have led to consequences well worth the lawyer's consideration. Every one else is considering them and considering them with deep concern. We have witnessed in modern business the submergence of the individual within the organization and yet the increase to an extraordinary degree of the power of the individual—of the individual who happens to control the organization. Most men are individuals no longer so far as their business, its activities or its moralities, is concerned. They are not units, but fractions; with their individuality and independence of choice in matters of business they have lost also their individual choice within the field of morals. They must do what they are told to do or lose their connection with modern affairs. They are not at liberty to ask whether what they are told to do is right or wrong. They

cannot get at the men who ordered it—have no access to them. They have no voice of counsel or of protest. They are mere cogs in a machine which has men for its parts. And yet there are men here and there with whom the whole choice lies. There are men who control the machine as a whole and the men who compose it. There are men who use it with an imperial freedom of design, whose power and whose individuality overtop whole communities. There is more individual power than ever, but those who exercise it are few and formidable, and the mass of men are mere pawns in the game.

The present task of the law is nothing less than to rehabilitate the individual,—not to make the subordinate independent of the superior, not to turn corporations into debating societies, not to disintegrate what we have been at such pains to piece together in the organization of modern industrial enterprise, but to undo enough of what we have done in the development of our law of corporations to give the law direct access again to the individual,—to every individual in all his functions.

Corporations do not do wrong. Individuals do wrong, the individuals who direct and use them for selfish and illegitimate purposes, to the injury of society and the serious curtailment of private rights. Guilt, as Governor Harmon has truly said, is always personal. You cannot punish corporations. Fines fall upon the wrong persons, more heavily upon the innocent than upon the guilty, as much upon those who knew nothing whatever of the transactions for which the fine is imposed as upon those who originated and carried them through—upon the stockholders and the customers rather than upon the men who direct the policy of the business. If you dissolve the offending corporation, you throw great undertakings out of gear. You merely drive what you are seeking to check into other forms or temporarily disorganize some important business altogether, to the infinite loss of thousands of entirely innocent persons and to the great inconvenience of society as a whole. Law can never accomplish its objects in that way. It can never bring peace or command respect by such futilities.

I regard the corporation as indispensable to modern business enterprise. I am not jealous of its size or might, if you will but abandon at the right points the fatuous, antiquated and quite unnecessary fiction which treats it as a legal person; if

you will but cease to deal with it by means of your law as if it were a single individual not only, but also,—what every child may perceive it is not,—a responsible individual. Such fictions and analogies were innocent and convenient enough so long as corporations were comparatively small and only one of many quite as important instrumentalities used in business, only a minor item in the economic order of society. But it is another matter now. They span society, and the responsibilities involved in their complex organization and action must be analyzed by the law as the responsibilities of society itself, in all its other aspects, have been.

The corporations now overshadow partnerships altogether. Still more do they overshadow all individuals engaged in business on their own capital and separate responsibility. It is an arrangement by which hundreds of thousands of men who would in days gone by have set up in business for themselves put their money into a single huge accumulation and place the entire direction of its employment in the hands of men they have never seen, with whom they never confer. These men, these quite autocratic managers, are thereby made, as it were, multiple individuals. In them are concentrated the resources, the choices, the opportunities, in brief, the power of thousands. They could never of themselves, of their own effort and sagacity, have accumulated the vast capital they employ and employ as if it were their own; and yet they have not the full legal responsibilities of those who supplied them with it. Because they have the power of thousands they have not the responsibility common to those whose power they use! It is an extraordinary anomaly!

A modern corporation is an economic society, a little economic State—and not always little, even as compared with States. Many modern corporations wield revenues and command resources which no ancient State possessed and which some modern bodies politic show no approach to in their budgets. The economic power of society itself is concentrated in them for the conduct of this, that or the other sort of business. The functions of business are differentiated and divided amongst them, but the power for each function is massed. In some instances even the functions are not separated. Railroad companies have been known to buy coal-mines. Manufacturing combinations have been observed to develop a score of subsidiary industries, to spread a network of

organization over related enterprises, and sometimes even over enterprises whose relation to their main undertakings it is difficult for the lay mind to perceive. Society, in short, has discovered a new way of massing its resources and its power of enterprise, is building up bodies economic outside its bodies politic which may, if we do not find the means to prevent them, the means of disclosing the responsibilities of the men who compose them, dominate bodies politic themselves.

And these huge industrial organizations we continue to treat as legal persons, as individuals, which we must not think of as consisting of persons, within which we despair of enabling the law to pick out anybody in particular to put either its restraint or its command upon! It is childish, it is futile, it is ridiculous! One thinks of the old Confederation, which we had to abandon because it tried to govern States and could not command individuals. As well treat society itself as a unit; insist that it impose a fine upon itself for every wrong done, no matter how notorious it may be who did it; suggest that it embarrass all its processes of action and even break itself up into its constituent parts and begin all over again when the persons whom it has trusted prove depraved or selfish. It is not even interesting to continue such an experiment.

Society cannot afford to have individuals wield the power of thousands without personal responsibility. It cannot afford to let its strongest men be the only men who are inaccessible to the law. Modern democratic society, in particular, cannot afford to constitute its economic undertakings upon the monarchical or aristocratic principle and adopt the fiction that the kings and great men thus set up can do no wrong which will make them personally amenable to the law which restrains smaller men: that their kingdoms, not themselves, must suffer for their blindness, their follies and their transgressions of right.

It does not redeem the situation that these kings and chiefs of industry are not chosen upon the hereditary principle (sometimes, alas! they are), but are men who have risen by their own capacity, sometimes from utter obscurity, with the freedom of self-assertion which should characterize a free society. Their power is none the less arbitrary and irresponsible when obtained. That a peasant may become king does not render the kingdom democratic.

I have no feeling of hostility towards the men who have in our day given the nation its extraordinary material power and prosperity by an exercise of genius such as in days gone by was used, in each great age, to build Empires and alter the boundaries of States. I am drawing no indictment: no indictment that I could draw would be just. No indictment that has been drawn has been just, but only exaggerated and disquieting. The time for hostilities has gone by. The time for accommodations, for common understandings, for a surcease of economic warfare and the inauguration of the peace that will come only by common sacrifice and concessions, has come. I am simply trying to analyze the existing constitution of business in blunt words of truth, without animus or passion of any kind, and with a single, clear purpose.

That purpose is to recall lawyers to the service of the nation as a whole, from which they have been drifting away; to remind them that, no matter what the exactions of modern legal business, no matter what or how great the necessity for specialization in their practice of the law, they are not the servants of special interests, the mere expert counsellors of this, that or the other group of business men; but guardians of the general peace, the guides of those who seek to realize by some best accommodation the rights of men. With that purpose in view, I ask them to look again at the corporation.

It is indispensable convenience; but is it a necessary burden? Modern business is no doubt best conducted upon a great scale, for which the resources of a single individual are manifestly insufficient. Money and men must be massed in order to do the things that must be done for the support and facilitation of modern life. Whether energy or economy be your standard, it is plain enough that we cannot go back to the old competitive system under which individuals were the competitors. Wide organization and co-operation have made the modern world possible and must maintain it. They have developed genius as well as wealth. The nations are richer in capacity and in gifts comparable to the higher gifts of statesmanship because of them and the opportunities they have afforded exceptional men. But we have done things in pursuit of them, and have nursed notions regarding them, which are no necessary part of what we seek. We can have corporations, can retain them in unimpaired ef-

ficiency, without depriving law of its ancient searching efficacy, its inexorable mandate that men, not societies, must suffer for wrongs done. The major premise of all law is moral responsibility, the moral responsibility of individuals for their acts and conspiracies; and no other foundation can any man lay upon which a stable fabric of equitable justice can be reared.

It is perfectly possible to have corporations and serve all the necessities and conveniences of modern society by means of the great combinations of wealth and energy which we have found to be so excellent, and yet dispense with a large part of the quite outworn and now in many respects deeply demoralizing fiction that a corporation is an indivisible person. Of course we must continue to regard it as an artificial person so far as is necessary to enable it to hold such property as may be proper for the execution of its charter purposes, to sue and be sued, and to conduct its business through officers who speak for it as a whole, and whose signatures and orders are, under its by-laws and resolutions, binding upon it. It must act and live as a person and must be capable of enjoying, what individuals cannot enjoy, a certain perpetuity of power and authority, though individual men within it come and go, live, die, resign or are translated. But there its unity should stop.

In respect of the responsibility which the law imposes in order to protect society itself, in order to protect men and communities against wrongs which are not breaches of contract but offences against the public interest, the common welfare, it is imperative that we should regard corporations as merely groups of individuals, from which it may, perhaps, be harder to pick out particular persons for punishment than it is to pick them out of the general body of unassociated men, but from which it is, nevertheless, possible to pick them out—possible not only, but absolutely necessary if business is ever again to be moralized. Corporations must continue to be used as a convenience in the transaction of business, but they must cease to be used as a covert for wrong-doers.

The managers of corporations themselves always know the men who originated the acts charged against them as done in contravention of the law. Is there no means by which their names may be disclosed to the officers of justice? Every act, every policy in the conduct of the affairs of a corporation, orig-

inates with some particular office, committee or board. The officer, the committee, the board which orders an act or originates a policy contrary to the law of the land or intended to neutralize or contravene it is an insurgent against society: the man or men who originate any such act or policy should be punished, and they alone. It is not necessary that the corporation should be broken up. It is not fair that the stockholders should be mulcted in damages. If there are damages to be paid they should be paid out of the private means of the persons who are really guilty. An analysis of the guilt is perfectly feasible. It is the duty of lawyers, of all lawyers, to assist the makers of law and the reformers of abuses by pointing out the best and most effective way to make it.

It seems to me absurd, for example—and this by way of parenthesis—to extend the law of libel to corporations, to suffer one publishing corporation to sue another for defamation. Somebody in particular has uttered the libel, somebody in particular has been libelled. Character cannot be incorporated; writing cannot be corporately done. Are lawyers so incapable of ascertaining the facts that they cannot find out who it is that did the thing or who it is that has been injured in his reputation?

I know that the matter is not as simple as it sounds. I know that some corporations are in fact controlled from the outside, not from the inside: that it often happens that some man or some small group of men who are not even in its directorate dictate its policy, its individual acts, its attitude towards law and society, and that the men who act within it are little better than automata. But are they really beyond discovery? On the contrary, is it not generally matter of common knowledge who they are? Would it take extraordinary acumen and intelligence to devise laws which would reach them also? What we are after, of course, is to obtain laws which will prevent the use of corporations to the public hurt and disadvantage. We know that the man who shoots his enemy was not in the gun, that he simply used it, and that no part of the mechanism of the gun itself is criminally liable. We can generally discover who used the gun and how he used it, whatever his cunning and secrecy. We can also find out who uses the corporations against the public interest; and we can punish him, or them, if we will, whether they belong to the actual nominal organization of the corporation

or not. Our processes of evidence may have to be considerably altered, but we can alter them; our formal conception of parties in interest may have to be extended, but it is easy to extend it; our make-believe that we can see nobody in the transaction but those who are avowed and formal members of the organization may have to be discarded, but that ought to be a relief to our consciences. We have allowed ourselves to be ridiculously limited and embarrassed by the theory that a corporation is an indivisible person not only, but that nobody outside of it, no matter how intimate his use and control, may be brought into the suit by any genteel lawyer bred in the orthodox schools of law. A corporation is merely a convenient instrument of business and we may regulate its use as we please and those who use it. Here is merely an artificial, a fictitious person, whom God did not make or endow, which we ourselves have made with our own hands and can alter as we will. I see no law of nature in our way, but only some laws of evidence and of corporate theory which we have outgrown.

It will be said that in many instances it is not fair to pick out for punishment the particular officer who ordered a thing done, because he really had no freedom in the matter: that he is himself under orders, exercises no individual liberty of choice, is a dummy manipulated from without. I reply that society should permit no man to carry out orders which are against law and public policy, and that, if you will but put one or two conspicuous dummies in the penitentiary, there will be no more dummies for hire. You can stop the traffic in dummies, and then, when the idea has taken root in the corporate mind that dummies will be confiscated, pardon the one or two innocent men who may happen to have got into jail. There will not be many, and the custom of the trade will change!

There are other corporate matters worthy of attention, but they do not intimately concern my present theme. I think it must be admitted, for example, that the position of the minority stockholder is, in most of our States, extremely unsatisfactory. I do not wonder that he sometimes doubts whether corporate stocks are property at all or not. He does not seem to enjoy any of the substantial rights of property in connection with them. He is merely contributing money for the conduct of a business which other men run as they please. If he does not

approve of what they do, there seems nothing for it but to sell the stock (though their acts may have depreciated its value immensely). He cannot even inquire or protest without being told to mind his own business—the very thing he was innocently trying to do! There are many things which are not satisfactory about this putting the money of many men into one pile for the use of a board of directors, and to my mind it is clearly the task of the counsellors of society to make them satisfactory. It is the duty of the profession to see to it that no man's powers exceed or lie outside of his legal and personal responsibilities—that the corporation be made a mere convenience of business and not a means of irresponsible mastery, its interior and all men within it as accessible to the law as its exterior and the scattered individuals who have no corporate ambush from which to work their will.

I have used the corporation merely as an illustration. It stands in the foreground of all modern economic questions, so far as the United States are concerned. It is society's present means of effective life in the field of industry. Society must get complete control of its instrument or fail. But I have used it only as an illustration of a great theme—namely, the responsibility of the lawyer to the community he professes to serve.

Lawyers are not a mere body of expert business advisers in the field of civil law or a mere body of expert advocates for those who get entangled in the meshes of the criminal law. They are servants of the public, of the State itself. They are under bonds to serve the general interest, the integrity and enlightenment of law itself, in the advice they give individuals. It is their duty also to advise those who make the laws—to advise them in the general interest, with a view to the amelioration of every undesirable condition that the law can reach, the removal of every obstacle to progress and fair dealing that the law can remove, the lightening of every burden the law can lift and the righting of every wrong the law can rectify. The services of the lawyer are indispensable not only in the application of the accepted processes of the law, the interpretation of existing rules in the daily operations of life and business. His services are indispensable also in keeping and in making the law clear with regard to responsibility, to organization, to liability and, above all, to the relation of private rights to the public interest.

The structure of modern society is a structure of law rather than of custom. The lawyer's advice is more than ever necessary to the State, therefore. Communities as well as individuals stand in constant need of his guidance. This used to be commonplace doctrine amongst us. Why does it now need to be preached again? Is it mere accident that the relation of the legal profession to affairs has changed? Is it merely because the greater constitutional questions seemed for a time to be settled and legal debates gave place to industrial enterprise, a great age of material following a great age of political development? Has it been merely a change of circumstances, or has it been a change of attitude and spirit as well on the part of the profession itself? Has not the lawyer allowed himself to become part of the industrial development, has he not been sucked into the channels of business, has he not changed his connections and become part of the mercantile structure rather than part of the general social structure of our commonwealths as he used to be? Has he not turned away from his former interests and duties and become narrowed to a technical function?

Whatever may be the cause, it is evident that he now regards himself as the counsel of individuals exclusively and not of communities. He may plead the new organization of politics, which seems to exclude all counsel except that of party success and personal control; he may argue that public questions have changed, have drifted away from his field, and that his advice is no longer asked; but, whatever his explanation or excuse, the fact is the same. He does not play the part he used to play. He does not show the spirit in affairs he used to show. He does not do what he ought to do.

For there never was a time, in fact, when his advice, his disinterested and earnest advice, was more needed than it is now in the exigent processes of reform, in the busy processes of legislation through which we are passing, with so singular a mixture of hope and apprehension. I hear a great many lawyers join the cry of the business men that it is time legislators left business alone, allowed it to recover from the confusion and distraction of regulative statutes, altered tariffs and supervising commissions, find its natural methods again, and go forward upon a way of prosperity which will not be beset by fear and uncertainty. But the cry is futile, the impatience which gives rise to it is selfish

and ignorant. Nothing is settled or can be let alone when it is known to be wrong until it is set right. We have settled nothing in our recent reform legislation. That is the reason it is so unsatisfactory and why some prudent and thoughtful men grow tired of it. But that is only another reason for seeking out and finding what will be the happy and successful way of setting our economic interests in order. There has been no satisfactory settlement, but there must be one. Public opinion is wider awake about these matters than it has been within the memory of any man living, and it is not going to turn away from them until satisfactory reforms of the law are found. There will be no peace until a happy and honorable basis of peace has been hit upon. Lawyers may come into the settlement or stay out of it, as they please, but a settlement there must be. For one, I hope that they will not stay out. I fear that it would be disastrous for them to do so—disastrous to them and to society. I covet for them their old and honorable leadership in public counsel.

Just because they have so buried themselves in modern business, just because they have been so intimate a part of it, they know better than any one else knows what legal adjustments have and have not been made—know the practices that circumvent the law, even the existing law, and the provisions of statute and court procedure that might put a stop to them or square them with what the interests of the whole community demand, theirs is the special responsibility to advise remedies. Theirs has been the part of intimate counsel in all that has been going on. The country holds them largely responsible for it. It distrusts every "corporation lawyer." It supposes him in league with persons whom it has learned to dread, to whom it ascribes a degree of selfishness which in effect makes them public enemies, whatever their motives or their private character may be. And the lawyer—what does he do? He stands stoutly on the defensive. He advises his client how he may make shift, no matter how the law runs. He declares that business would go very well and every man get his due if only legislators would keep their hands off! He keeps his expert advice for private persons and criticises those who struggle without his countenance or assistance along the difficult road of reform. It is not a promising situation.

Our reforms must be legal reforms. It is a pity they should go forward without the aid of those who have studied the law in

its habit as it lives, those who know what is practicable and what is not, those who know, or should know, if anybody does, the history of liberty.

The history of liberty is a history of law. Men are not free when they have merely conceived what their rights should be. They are not set free by philosophies of right. Their theories of the rights of man may even lead them astray, may make them break their hearts in pursuit of hopes they can never realize, objects they can never grasp, ideals that will forever elude them. Nothing is more practical than the actual body of liberty. It consists of definitions based upon experience, or rather of practices that are of the very essence of experience. A right is worth fighting for only when it can be put into operation. It can be put into operation only when its scope and limitation can be accurately defined in terms of legal procedure; and even then it may amount to nothing if the legal procedure be difficult, costly or complicated. Liberty of speech is defined in the law of slander and of libel, and becomes mere license against which there is no protection if the law of slander or of libel be difficult or costly or uncertain to apply. Liberty of the person is defined only when the law has carefully enumerated the circumstances in which it may be violated, the circumstances in which arrests and imprisonments and army drafts, and all the other limitations upon which society may insist for its protection or convenience, will be lawful. Its reality, its solidarity, consists in the definiteness of the exceptions, in the practicality of the actual arrangements.

And it is part of its definiteness and reality that liberty is always personal, never aggregate; always a thing inhering in individuals taken singly, never in groups or corporations or communities. The indivisible unit of society is the individual. He is also the indigestible unit. He cannot be merged or put into combination without being lost to liberty, because lost to independence. Make of him a fraction instead of an integer and you have broken his spirit, cut off the sources of his life. That is why I plead so earnestly for the individualization of responsibility within the corporation, for the establishment of the principle by law that a man has no more right to do a wrong as a member of a corporation than as an individual. Establish that principle, cut away the undergrowth of law that has sprung up so rankly about the corporation and made of it an ambush and covert, and

it will give every man the right to say *No* again, to refuse to do wrong, no matter who orders him to do it. It will make a man of him. It is in his interest no less than in the interest of society, which must see to it that wrong-doing is put a stop to.

We are upon the eve of a great reconstruction. It calls for creative statesmanship as no age has done since that great age in which we set up the government under which we live, that government which was the admiration of the world until it suffered wrongs to grow up under it which have made many of our own compatriots question the freedom of our institutions and preach revolution against them. I do not fear revolution. I do not fear it even if it comes. I have unshaken faith in the power of America to keep its self-possession. If revolution comes, it will come in peaceful guise, as it came when we put aside the crude government of the Confederation and created the great Federal State which governed individuals, not corporations, and which has been these hundred and thirty years our vehicle of progress. And it need not come. I do not believe for a moment that it will come. Some radical changes we must make in our law and practice. Some reconstructions we must push forward which a new age and new circumstances impose upon us. But we can do it all in calm and sober fashion, like statesmen and patriots. Let us do it also like lawyers. Let us lend a hand to make the structure symmetrical, well proportioned, solid, perfect. Let no future generation have cause to accuse us of having stood aloof, indifferent, half hostile or of having impeded the realization of right. Let us make sure that liberty shall never repudiate us as its friends and guides. We are the servants of society, the bond-servants of justice.

WOODROW WILSON.